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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

R. S .A. No. 938 of 2005
Date of decision: 26.11.2007

Joginder Singh and others **...Appellants**

Versus

Paramjit Singh and others **...Respondents**

CORAM: HON'BLE MR. JUSTICE RAJESH BINDAL

Present: Mr. K.S.Rekhi, Advocate for the appellants.

Mr. Arun Palli, Senior Advocate with
Mr. Parminder Singh, Advocate for the respondents.

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RAJESH BINDAL, J.

The plaintiffs are in second appeal before this court against the concurrent findings of fact by both the Courts below whereby suit filed by plaintiffs for permanent injunction restraining the defendants from raising any type of construction and transferring the same to any person and also from interfering in lawful possession of the appellants/plaintiffs over the suit land was dismissed.

The claim was sought to be set up on the basis of stray Jambandi for the year 1991-92 wherein the appellants were shown to be owner of the land in dispute and in the column of possession 'Maqbooja Ehl-e-Islam' was mentioned. Besides this there was no other Jamabandi or document on record, which could show that ownership of the property vested in the appellants/plaintiffs. The suit was filed on October 26, 1994. Both the Courts below found that there was no material produced on record by the appellants/plaintiffs showing them to be owner of the land in dispute as Jamabandi as such is not the document of title.

Before this Court, learned counsel for the appellants filed an application for leading additional evidence to produce on record Jamabandies for the years 1966-67 and and 1971-72 showing them to be

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owner of the land . Firstly no reason is forthcoming as to why this evidence was not produced before the Courts below. The plea that same were not available cannot be accepted. Secondly, there is nothing on record to show as to why the entries in the ownership column were changed in the Jamabandis subsequent to 1971-72 and was again came to be recorded in the Jamabandi for the year 1991-92. As no material or document showing the position of the period in between is on record. The oral submission of the learned counsel for the appellants to the effect that even during this period the position remained the same cannot be believed in the absence of documentary evidence. Once the appellants had not been able to prove their ownership or title of the property in dispute of which they were admittedly not in possession, they were not entitled to maintain a suit for permanent injunction.

Accordingly, I do not find any substantial question of law arises in the present appeal and the same is dismissed.

November 26, 2007 **(Rajesh Bindal)**
Pka **Judge**